

Exhibit F



"Henderson, George
(USAMA)"
<George.Henderson2@usdoj.
gov>

02/09/2009 09:22 AM

To "Eric Gortner" <egortner@kirkland.com>

cc "Smith, Barbara H. (USAMA)"
<Barbara.H.Smith@usdoj.gov>, "Fauci, Jeff (USAMA)"
<Jeff.Fauci@usdoj.gov>, "John Reale"

bcc

Subject RE: U.S. v. Boehringer Ingelheim Roxane

Eric, I had thought I sent this reply last week, but I see I did not.

By "this area," I mean NovaPlus. I would have asked follow-up questions had Ms. Rivera not objected and instructed the witness not to answer. I would be willing to limit the questioning to two hours.

Bunker

From: Eric Gortner [mailto:egortner@kirkland.com]

Sent: Thursday, February 05, 2009 1:03 PM

To: Henderson, George (USAMA)

Cc: Smith, Barbara H. (USAMA); Fauci, Jeff (USAMA); John Reale; maria@mriveralaw.com; Martin Roth

Subject: Re: U.S. v. Boehringer Ingelheim Roxane

Dear Bunker,

Can you please provide some additional clarification here. Specifically, it is unclear what you mean by the phrase "complete its questioning on this area." Is the Government asking to reconvene the Rule 30(b)(6) deposition of Roxane's corporate designee solely to obtain answers to the questions that the witness was instructed not to answer on December 12, 2008, or is the Government seeking to ask additional questions beyond the ones it asked at the deposition? Before Roxane can agree to anything, it needs to understand precisely what "area" you are referring to, and the expected scope and length of the questioning. I can then check with my client on these issues, but I need to first understand exactly what the Government is seeking here.

I have not yet had the opportunity to review the cases that you cite, but will do so.

Best regards,

Eric

Eric Gortner
Kirkland & Ellis LLP
200 E. Randolph Street
74th Floor
Chicago, IL 60601
(312) 861-2285 (direct line)
(312) 665-9665 (direct fax)

"Henderson, George (USAMA)" <
George.Henderson2@usdoj.gov>

02/04/2009 02:28 PM

To<egortner@kirkland.com>
cc<maria@mrivalaw.com>, "John Reale" <JReale@kirkland.com>, "Smith, Barbara H.
(USAMA)" <Barbara.H.Smith@usdoj.gov>, "Fauci, Jeff (USAMA)" <Jeff.Fauci@usdoj.gov>
SuU.S. v. Boehringer Ingelheim Roxane
bje
ct

Dear Eric,

At the December 12, 2008, 30(b)(6) deposition of Roxane, I asked Ms. Waterer some questions concerning the NovaPlus drugs. Counsel for Roxane improperly instructed the witness not to answer such questions on the ground that the questions were outside the scope of the Rule 30(b)(6) topics. The United States wants to reconvene the deposition to complete its questioning on this area.

Although one Magistrate Judge in this district has ruled that questioning at a Rule 30(b)(6) is limited to the scope of the designated topics, *Paparelli v. Prudential Ins. Co. of Am.*, 108 F.R.D. 727, 729-30 (D.Mass. 1985), all courts since then have ruled to the contrary. *King v. Pratt & Whitney Corp.*, 161 F.R.D. 475, 476 (S.D. Fla. 1995); *see also*, *United States E.E.O.C. v. Caesars Entertainment, Inc.*, 237 F.R.D. 428, 432 (D. Nev. 2006); *Detoy v. City and County of San Francisco*, 196 F.R.D. 362, 365 (N.D. Cal. 2000); *Cabot Corp. v. Yamulla Enterprises, Inc.*, 194 F.R.D. 499, 500 (M.D. Pa. 2000); *Overseas Private Inv. Corp. v. Mandelbaum*, 185 F.R.D. 67, 68 (D.D.C. 1999). I believe Magistrate Judge Bowler will agree with the majority view.

At your earliest convenience, please let me know if Roxane will agree to reconvene the deposition here in Boston to complete the questioning on this area. I anticipate this email and your reply will satisfy Local Rule 7.1(A)(2). Of course I will gladly discuss this by telephone if you wish.

Regards,

Bunker Henderson

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